



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/0477

Re: Property at 22 Grampian Gardens, Dyce, Aberdeen, AB21 7LF (“the Property”)

Parties:

Mrs Louise McKay, 32 Grampian Gardens, Dyce, Aberdeen, AB21 7LF (“the Applicant”)

Alison McKeown, Mr Silvio Bouvett, 22 Grampian Gardens, Dyce, Aberdeen, AB21 7LF; 7B Seaton Gardens, Aberdeen, AB24 1XD (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of both parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.

Background

1. By application dated 14 February 2023 the Applicant’s representatives Stewart Property Services, Aberdeen, applied to the Tribunal for an order for the eviction of the Respondents from the property under grounds 11 and 14 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of the tenancy agreement together with a Notice to Leave, Section 11 Notice and copy emails in support of the application.
2. By Notice of Acceptance dated 3 May 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Second named Respondent by Sheriff Officers but not on the First named Respondent as he was no longer residing at the property.
4. A CMD was held by teleconference on 6 July 2023. The Applicant did not attend nor was she represented. The Second named Respondent attended in person. The first named Respondent did not attend nor was he represented. The Tribunal adjourned the proceedings to a further CMD and issued a Direction to the Applicant's representative to instruct tracing agents to locate the current address of the First named Respondent.
5. By email dated 3 October 2023 the Applicant's representatives provided a response to the direction with an address for the First named Respondent.
6. Intimation of the adjourned CMD was served on the First named Respondent by Sheriff Officers on 29 November 2023. Intimation of the adjourned CMD was also sent by the Tribunal administration to the Applicant's representatives and the Second named Respondent.

The Case Management Discussion

7. A second CMD was held by teleconference on 18 January 2024. There was no attendance by any of the parties or any representatives on their behalf. The Tribunal delayed the commencement of the CMD for several minutes to allow time for a party to dial in late.
8. As there was no attendance by or on behalf of either of the parties the Tribunal dismissed the application in terms of Rule27(2) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Reasons for Decision

9. The Tribunal was concerned that on two separate occasions the Applicant had not attended or been represented. There had been no recent correspondence from the Applicant's representatives providing up-to-date information as regards the grounds for eviction or whether it would be reasonable to grant the order. There had been no request from the Applicant's representatives for a postponement of the CMD. In the circumstances the Tribunal considered that it had been provided with insufficient information to deal with the proceedings justly and fairly and that therefore the application should be dismissed.

Decision

10. The application is dismissed.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Legal Member/Chair

**18 January 2024
Date**